

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1 and 4-14 are in the application subsequent to entry of this Amendment. Of these, claims 12, 13 and 15 have been withdrawn from consideration as being directed to non-elected subject matter.

Applicants agree that claim 15 may be withdrawn and, in fact, it has been canceled as directed to non-elected subject matter; *see* the requirement for restriction given in the Official Action of January 14, 2004.

In the current Official Action claims 12, 13 and 15 have been withdrawn "as drawn to a non-elected group" there being no allowable generic or linking claim. Applicants protest the withdrawal of claims 12 and 13 from consideration as the "linking" claim is in fact claim 8 from which claims 9-14 depend, either directly or indirectly. The record of the examination of this application does not establish reasons why claims 12 and 13 should not be considered as examination proceeds. Accordingly, it is requested that these claims be rejoined with the claims under active consideration.

Concerning the Information Disclosure Statement filed July 8, 2002, the "Other Documents" mentioned by the examiner are in fact identified and discussed in applicants' specification to define and confirm the terminology used in the relevant art. The first one, Dictionary of Beverage Terms, may be found in the third full paragraph on page 1 of the specification and the second, Revised Dictionary of Juice and Fruit Drinks, is identified and discussed on page 4, second full paragraph.

Attached are copies of these two documents (in Japanese). The examiner will note that the relevant copyright/publication dates are given and to this end a revised PTO-1449 form is attached showing the relevant publication date for each. Please date and initial this form indicating the two documents in question have been considered. If for any reason this submission is believed to be postponed, authorization is hereby given to charge our Deposit Account 14-1140 in the amount of \$180 to assure these documents have been considered and entered into the record of this application. Also attached are relevant portions of an attachment previously submitted (in its entirety) with the IDS of May 21, 2002. This information will provide the examiner with a brief statement (in English) of the relevant information in the

documents to which applicants refer. Favorable consideration of these two documents is requested.

Also listed on the attached PTO-1449 is a revised version of the citation of Singh et al. This document was cited by the European Patent Office and on the face of it bears the indication "Accepted for publication August 18, 1999" hence the date 1999 is included on the attached PTO-1449. Consideration of all of these documents is requested.

The Abstract of the Disclosure has been revised and presented in the form of a single paragraph as requested in item 5 of the Official Action.

The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention. The issues presented in items 6-10 of the Official Action have been addressed and appropriate corrective action taken, where necessary.

In overview, the subject matter of claims 2 and 3 have been incorporated into claim 1. Claim 4 is revised to depend from claim 1, not claim 3, and to replace the "characterized in that" terminology with the more customary --wherein--. Claim 5 is revised to make more precise the nature of mango puree. In their specification applicants define "mango juice" as including mango puree which is the juice obtained by crushing mango fruit and straining it; *see* the discussion on page 4, lines 5-16 of the specification. As the wording of claim 5 is clear, concise and consistent with the description of the invention, the requirements of 35 USC §112, second paragraph, have been satisfied.

Claim 7 is revised to improve the form of presentation as well as adjusted for appropriate antecedent basis; the term "excellent" has been deleted as being unnecessary.

Having addressed the issues raised in items 6-10 of the Official Action, withdrawal of these objections is requested.

The balance of the Official Action relates to rejections based upon prior art. Claims 1-9 as presented were rejected as being anticipated by Chen et al U.S. 5,756,141. This rejection is no longer pertinent having regard to the amendments made to the claims as well as the remarks that follow. Claims 11 and 14 were rejected on the basis of Chen taken with secondary references. To the extent that the examiner's concerns relating to prior art may pertain to the amended claims presented above, the rejections set out in items 11-16 of the Official Action are respectfully traversed.

Generally speaking, depulping of fruit juice eliminates almost all insoluble components, which are responsible for the fruit juice flavor, from the processed fluid.

However, the present inventors found, surprisingly, that when mango juice is used as the fruit juice, the processed juice obtained after depulping (used to prevent sedimentation) contains a large quantity of insoluble components (page 3, lines 21-24). To explain, after depulping fruit juices by centrifugal separation, the turbidity, which is usually considered an indicator of the fruit-derived flavor, of the tested fruit juices – except for mango – was low, but turbidity of the mango juice was very high (page 8, line 5-page 9, line 10; Figure 1). The present invention was completed on the basis of such findings.

On the other hand, Chen et al disclose clarified juice produced by a process comprising the step of subjecting pulpy fruit puree etc. to ultrafiltration (UF) or micro filtration to form a fraction comprising substantially all of the suspended solids and a fraction of clarified juice. They describe one method for depulping, and refer to mango as a possible subject of their plan only twice throughout the entire description (column 10, lines 17 and Claim 3). However, they neither describe nor suggest the above-stated characteristics which are unique to mango juice after depulping by centrifugal separation. Furthermore, Chen et al mention that one advantage of their process is to eliminate centrifuging steps (column 7, lines 9-13 and lines 28-31), hence Chen would not have appreciated turbidity characteristics associated with mango juice to be high.

Namely, Chen et al disclose clarified fruit juice, which is obtained by a process which removes almost all of suspended solids by ultra or micro filtration, and thus which hardly contains insoluble flavor components derived from the fruit. A person having ordinary skill in the art can easily recognize that the particle size distribution and the turbidity of their clarified juice obtained by the filtration process is different from those of the processed mango juice of the present invention, which are typically shown in Figures 2 and 3 of the present application. Chen et al refer to mango only by chance, without any suggestion of the surprising feature of the processed mango juice of the present invention.

Regarding the rejections put forward under 35 USC §103(a), the examiner rejects claims 10, 11 and 14 as being unpatentable over Chen et al in view of XP-002201947, DE20102826U1 or Wu et al (US 5,468,508). Applicants disagree and request reconsideration.

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Appl. No. 10/076,657
September 8, 2004

The deficiencies of the primary reference Chen et al are not overcome by the additional citations relied upon in items 13-16 of the Official Action, thus claims 10, 11 and 14 are patentable over the prior art by virtue of their dependencies, either directly or indirectly, from claim 1.

Reconsideration and favorable action are solicited. If for any reason the examiner requires information, please contact the undersigned by telephone.

Please note also that the documents submitted with this response in the form of an Information Disclosure Statement are intended to clarify the record and provide information the examiner specifically requested. Counsel does not consider this to be a second IDS but instead clarification of the earlier ones, hence no additional fee is believed to be required to obtain consideration of the attached materials. However, if the examiner disagrees authorization is given in the IDS itself to charge the relevant fee of \$180 to the deposit account of the undersigned.

Respectfully submitted,

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By: _____


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